

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

JOHN C. SANDERS,

Appellant

v.

STATE OF MISSOURI.

Respondent

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DOCKET NUMBER WD79407

DATE: FEBRUARY 28, 2017

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Appeal From:

Circuit Court of Lafayette County, MO  
The Honorable Dennis A. Rolf, Judge

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Appellate Judges:

Division Two  
Lisa White Hardwick, Presiding Judge, Karen King Mitchell, Judge, Rex Gabbert, Judge

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Attorneys:

Jeannette L. Wolpink, Kansas City, MO,  
Counsel for Appellant

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Attorneys:

Daniel N. McPherson, Jefferson City, MO  
Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JOHN C. SANDERS, Appellant, v.  
STATE OF MISSOURI, Respondent**

**WD79407**

**Lafayette County**

Before Division Two Judges: Lisa White Hardwick, Presiding Judge, Karen King Mitchell, Judge, Rex Gabbert, Judge

John C. Sanders appeals from the denial, without an evidentiary hearing, of his Rule 24.035 motion for post-conviction relief. Sanders asserts that the court clearly erred: (1) in denying his motion without an evidentiary hearing because he alleged facts, not conclusions, which if true would entitle him to relief and which are not refuted by the record, in that he alleged that his plea counsel failed to act as a reasonably competent attorney by failing to investigate the State's allegations, failing to file a motion to dismiss the case, and failing to inform Sanders that he was not required, as a matter of law, to register as a sex offender pursuant to Sections 589.400-589.425, RSMo 2000, giving him a complete defense to the crime he was charged with, (2) in denying his motion without an evidentiary hearing because he alleged that plea counsel failed to investigate the State's allegations and failed to inform Sanders that he had a viable defense to the crime he was charged with, and (3) in denying his Rule 24.035 motion because the plea court lacked a factual basis to accept his guilty plea in that the record of the plea hearing demonstrates that Sanders was not required to register as a sexual offender and therefore could not be guilty of failure to register as a sexual offender pursuant to Sections 589.400-589.425.

**REVERSED AND REMANDED**

**Division Two holds:**

The circuit court erred by failing to permit Sanders an evidentiary hearing on his Rule 24.035 motion for post-conviction relief because the record before us does not conclusively refute Sanders' claims that his plea was not knowingly, voluntarily, and intelligently made due to plea counsel's ineffectiveness and/or because no factual basis existed for the plea.

Opinion by Anthony Rex Gabbert, Judge

Date: February 28, 2017

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